

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation by the Department of Telecommunications and Energy on its own Motion into the Appropriate Pricing, based upon Total Element Long-Run Incremental Costs, for Unbundled Network Elements and Combinations of Unbundled Network Elements, and the Appropriate Avoided Cost Discount for Verizon New England, Inc. d/b/a Verizon Massachusetts' Resale Services in the Commonwealth of Massachusetts

D.T.E. 01-20

**MOTION OF AT&T COMMUNICATIONS OF NEW ENGLAND, INC.
FOR PROTECTIVE TREATMENT OF CONFIDENTIAL INFORMATION**

AT&T Communications of New England, Inc. ("AT&T") hereby requests that the Department of Telecommunications and Energy (the "Department") grant protection from public disclosure of certain confidential, competitively sensitive and proprietary information submitted in this proceeding in accordance with G.L. c. 25, § 5D. Specifically, AT&T requests that the following documents be kept confidential:

1. Attachments 2-4 to the Rebuttal Testimony of AT&T witness Catherine E. Pitts;
2. The diskettes submitted along with the Rebuttal Testimony of AT&T witness Steven E. Turner; and
3. The CD-ROM that was submitted along with the Rebuttal Testimony of AT&T witness Michael J. Baranowski.

Each of these documents contain information that was previously provided to AT&T in this docket by Verizon. When Verizon produced this information to AT&T, Verizon claimed that the information was proprietary and provided it pursuant to a protective agreement that AT&T had entered into with Verizon.

I. Legal Standard.

Confidential information may be protected from public disclosure in accordance with G.L. c. 25, § 5D, which states in part that:

The [D]epartment may protect from public disclosure trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter. There shall be a presumption that the information for which such protection is sought is public information and the burden shall be on the proponent of such protection to prove the need for such protection. Where the need has been found to exist, the [D]epartment shall protect only so much of the information as is necessary to meet such need.

The Department has recognized that competitively sensitive information is entitled to protective status. *See, e.g., Hearing Officer's Ruling On the Motion of CMRS Providers for Protective Treatment and Requests for Non-Disclosure Agreement*, D.P.U. 95-59B, at 7-8 (1997) (the Department recognized that competitively sensitive and proprietary information should be protected and that such protection is desirable as a matter of public policy in a competitive market).

II. ARGUMENT.

Exhibits 2-4 to the Pitts testimony, the Turner diskettes and the Baranowski CD-ROM contain reproductions of materials that Verizon had previously provided to AT&T and the Department. When Verizon originally provided this information, it claimed that the information is proprietary and competitively sensitive in nature. AT&T has entered into a protective agreement in this docket which requires it to treat in a confidential manner all materials supplied by Verizon which Verizon has designated as proprietary. As a result, when AT&T included such information in the Pitts, Turner and Baranowski rebuttal materials, AT&T designated the materials as proprietary. Because this is Verizon information which Verizon has claimed is

proprietary, AT&T will rely on Verizon's own motion for protective treatment for all further support of this motion.

Conclusion.

For these reasons, AT&T requests in accordance with G.L. c. 25, § 5D that the Department grant protection from public disclosure of: (1) attachments 2-4 to the Rebuttal Testimony of AT&T witness Catherine E. Pitts; (2) the diskettes submitted along with the Rebuttal Testimony of AT&T witness Steven E. Turner; and (3) the CD-ROM that was submitted along with the Rebuttal Testimony of AT&T witness Michael J. Baranowski.

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